

DEC 13 2005

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Application No.: 10/725,248

Inventor(s): Sharon Ann Norton et al.

Filed: December 1, 2003

Docket No.: P145

Confirmation No.: 1932

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- 1) Response to Restriction Requirement (3 pgs.)

Number of Pages Including this Page: 4

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(FAX-USPTO.doc Revised 11/18/2003)

Appl. No. 10/725,248  
Atty. Docket No. P-145  
Resp. to Restriction: December 13, 2005  
Customer No. 27752

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/725,248  
Applicant(s) : Sharon Ann Norton, et al.  
Filed : December 1, 2003  
Title : Compositions Comprising Fermentable Fiber Which  
Are Adapted For Use By A Companion Animal And  
Kits And Methods Of Their Use  
TC/A.U. : 1623  
Examiner : Amy Lynn Clark  
Conf. No. : 1932  
Docket No. : P145  
Customer No. : 27752

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450  
Dear Sir:

This is responsive to the December 2, 2005 Office Action in the above-entitled application, setting a one-month period for response.

*Remarks* begin on page 2 of this paper.

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Election with Traverse under 37 CFR § 1.143

The Office Action states that the restriction to one invention is required under 35 USC § 121. Applicants respectfully traverse the Restriction Requirement because there is no serious burden placed on the Examiner to consider all claims.

The Examiner has required the Applicants to restrict the claims of the above captioned application. Specifically, the Examiner alleges that the application contains claims directed to three patentable inventions. The Examiner has designated Claims 1-23 as Group I, Claims 24-36 as Group II, and Claims 37-53 as Group III.

Claims 1-23 are drawn to a composition comprising at least 0.25% of total fermentable fiber. Claims 24-36 are drawn to a kit comprising a fermentable fiber. Claims 24-30 are drawn to a method selected from the group consisting of enhancing gastrointestinal health, improving fecal odor of the feces, reducing the risk of cancer, and combinations thereof, comprising orally administering to the companion animal the composition according to Claim 1.

Additionally, the Examiner requests that an election be made under 35 U.S.C. 121 to a single disclosed species.

Under MPEP § 803, election/restriction is proper when both of the following criteria are met: (1) The inventions must be independent or distinct as claimed; and (2) There must be a serious burden on the Examiner if the restriction is not required. Applicants submit that the aforementioned methods, kits and compositions are so closely related that it would not present an undue burden on the Examiner to examine the art. Additionally, Applicants respectfully submit that any prior art search set up for a specific fermentable fiber will be coextensive with any search for any of the disclosed and claimed fermentable fibers of the present invention. Applicants respectfully submit that examination of the present application, as a single unrestricted application, would not be unduly burdensome on the Examiner because a thorough art search of all of the identified classes and subclasses could easily be performed in a single application.

For these reasons, Applicants submit that the restriction requirement applied to the above identified application is improper and should be withdrawn.

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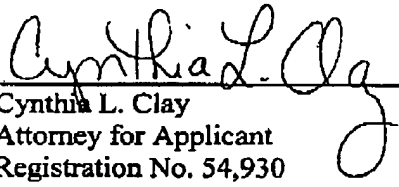
In view of the foregoing remarks, it is respectfully requested that the Examiner withdraw the requirement for restriction and allow Claims 1-53 to be prosecuted in the same application. Should the Examiner's restriction requirement not be withdrawn, Applicants hereby provisionally elect with traverse until final disposition of the elected claims, Group I which corresponds to current claims 1-23.

Applicants hereby provisionally elect in abeyance under 37 C.F.R. § 1.142(b) until final disposition of the elected claims, beet pulp as the fermentable fiber.

Conclusion

Applicants respectfully request the Examiner to withdraw the restriction requirement and request reconsideration of this application and allowance of Claims 1-53.

Respectfully submitted,

By   
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December 13, 2005  
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